STATE OF VERMONT
PUBLIC SERVICE BOARD

Order re implementation of the Regional Greenhouse Gas Initiative set-aside program for voluntary renewable purchases	)))

Order entered: 8/19/2009

I. Introduction

The Regional Greenhouse Gas Initiative ("RGGI") is a cooperative effort by ten Northeastern and Mid-Atlantic states, including Vermont, to reduce carbon dioxide emissions – a greenhouse gas that contributes to global climate change. Central to this initiative is the implementation of a multi-state cap-and-trade program with a market-based emissions trading system. The Public Service Board ("Board") has been tasked by statute, 30 V.S.A. § 255, to implement the auction provisions of the RGGI program.

On July 18, 2008, the Board issued an order implementing a process to participate in the RGGI auctions. The July 18 Order further directed Board staff to hold a workshop to discuss details relating to the set-aside and retirement of allowances in proportion to participation in voluntary renewable programs.

On April 2, 2009, Board staff held a workshop to discuss the voluntary renewable set-aside program. As a result of this workshop, Board staff issued a Report and Recommendation, Re: Implementation of the Vermont Voluntary Renewable Set-Aside Program for the Regional Greenhouse Gas Initiative ("Staff Report") on May 27, 2009 (attached). The workshop participants were provided an opportunity to comment on the Staff Report. On June 19, 2009, the Department of Public Service ("Department") filed comments in response to the Staff Report.

After considering the Staff Report and the comments, we adopt the Staff Report and Recommendation, with clarifications set forth below.

II. Comments of Participants

In its June 19 response to the Staff Report, the Department indicated that it supports the notion of a voluntary set aside program and in general supported the Staff Report. The Department had some comments on the eligibility criteria.

The Department agreed with staff recommendation that propose definitions for the types of facilities to be included in the set-aside program be consistent with 30 V.S.A. § 8002, and that this set-aside be made available to programs offered by Vermont utilities to purchase and retire renewable energy credits ("RECs") for their customers. The Department also supported an eligibility requirement that specifies the allowances to be retired will be based on the renewable energy "purchased" by Vermont customers in a green pricing program, including purchases that go to a renewable energy development fund, rather than the RECs retired through the program.[1] The Department cites the provision in Central Vermont Public Service Corporation's ("CVPS") Cow Power program which allows CVPS to deposit customer Cow Power purchases into its Renewable Development Fund should REC prices rise above a threshold. In the same manner, the Department states that, on page 7 of the Staff Report, the term MP, a variable used in the equation to calculate tons of CO_2 retired, should be the number of MWH purchased by Vermont consumers through a certified voluntary renewable energy program, rather than the number of RECs retired.

The Department also requests clarification regarding the Staff Report recommendation that an entity be required to demonstrate that the REC's purchased and retired are not used by the generator or purchaser to meet a renewable standard. The Department contends that, given the structure of the Sustainably Priced Energy Enterprise Development ("SPEED") program, it is possible that the resources in this set-aside program could be used to satisfy the renewable portfolio standard as defined in the SPEED program. The Department requests clarification on the Board's intent regarding the eligibility of SPEED resources for the set-aside program.

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1. Under 30 V.S.A. § 8003, all Vermont electric distribution utilities are required to establish voluntary renewable programs or provide customers the opportunity to donate money to the Clean Energy Development Fund ("CEDF"). Customers enrolled in these voluntary renewable pricing programs pay a premium on their electric rates to support renewable energy. The allowance for contributions to the CEDF addresses high prices or supply shortfalls affecting a utility's ability to acquire and retire RECs on behalf of participating customers. The statute also allows distribution utilities the option to participate solely in the CEDF as its voluntary renewable pricing program.

III. Discussion

The Board adopts the Staff Report's proposed framework for retiring CO_2 allowances in proportion to participation in voluntary renewable programs. The Trustee will retire CO_2 allowances in the set-aside account, in an amount approved by the Board, up to the number of tons requested by authorized applicants in order to reflect the purchase and retirement of RECs made by applicants during a given compliance year.

The Staff Report recommends that the Board permit allowances to be set-aside and retired in proportion to the purchase and retirement of RECs made by authorized applicants and not include any portion of the contribution directed to the CEDF. The Staff Report raises concerns that applying the set-aside to CEDF projects would raise challenging issues that include burdensome administration, difficulty in verification, and the potential for double-counting. As discussed in the Staff Report, some of the CEDF is spent on projects that do not result in the production of electricity from renewable energy and thus do not result in actual CO_2 reductions. In addition, some of the CEDF is spent on projects that lead to the production of electricity, that in the future, could sell RECs that are purchased by a green pricing program, and thus retiring allowances on behalf of contributions directed to the CEDF could result in double-counting.

In its comments on the Staff Report, the Department proposes that retirement of allowances should be based on customers who purchased renewable power through the program, including purchases that go to a renewable energy development fund, rather than the RECs retired through the program. The Department's comments did not address Board staff's concern with regard to the possibility of retiring allowances that have been double-counted or do not result in CO_2 reductions.

The Board agrees with staff recommendation that only projects actually developed and producing or displacing kWh from the utility under a green pricing program should qualify for the set-aside program. Although the CEDF is a valuable mechanism for developing renewable projects, the potential development of projects, as opposed to operation, does not necessarily result in CO_2 reductions. The intended purpose of the set-aside mechanism is to allow for the retirement of RGGI allowances in an amount that reflects the offsetting effects of CO_2 emissions associated with operational renewable electricity projects. The inclusion of voluntary renewable purchases in the set-aside program corresponding only to the retirement of RECs is consistent with the intended purpose of the set-side mechanism. In addition, retirement of CO_2 allowances in proportion to the purchase and retirement of RECs is consistent with other RGGI state programs. Therefore, the set-aside program will include voluntary renewable purchases corresponding only to the retirement of RECs.

The Staff Report recommends that the Vermont utility or qualifying entity eligible for the set-aside program demonstrate that the RECs purchased and retired for the set-aside program are not used by the generator or purchaser to meet a renewable portfolio standard. As discussed in the Staff Report, existing utility tariffs for voluntary renewable pricing programs establish that utilities cannot acquire "expired" RECs to meet participating customer demands. The concern for double-counting also arises if a REC retired by the set-aside program is used to meet another state's renewable portfolio standard.

In its comments on the Staff Report, the Department requests clarification on the Board's intent regarding the eligibility of SPEED resources for the set-aside program. The Department contends that, given the structure of the SPEED program, it is possible that the resources in this set-aside program could be used to satisfy the renewable portfolio standard as defined in the SPEED program.

The SPEED Program was established to encourage Vermont utilities to invest in renewable resources without a renewable portfolio standard. Under § 8004(b), a Vermont renewable portfolio standard does not take effect if Vermont utilities, collectively, meet load growth since 2005 and at least five percent of load is met through new renewable resources (SPEED resources). Currently, these conditions are being met in Vermont, thereby reducing the likelihood that a renewable portfolio standard will be required. Therefore, current SPEED resources are eligible for the set-aside program. If a renewable portfolio standard takes effect in Vermont, SPEED resources would no longer be eligible for the voluntary renewable set-aside program. The concerns for double-counting discussed above also arise if a REC retired by the set-aside program is used to meet Vermont's renewable portfolio standard.

Finally, we also clarify the mechanism for releasing any allowances not utilized by the voluntary renewable programs to auction. The mechanism for releasing unused allowances is not addressed in the Staff Report. The July 18 Order set the cap on the set-aside program at one percent (or 12,258 tons per year or about 22,146 MWh). It is likely that in a given year not all of the set-aside will be utilized. The remaining allowances for a given year will be rolled over and utilized for the following year set-aside and the following year set-aside of one percent shall be reduced by the amount rolled over. Therefore, the unused set-aside allowances for a given year are "released to auction" by reducing the amount of the set-aside in the following auction year.

The rolling over of unused set-aside allowances provides the Board with some additional administrative flexibility. The release of unused allowances for sale into the RGGI auction requires coordination with the RGGI auction schedule, which may limit the Board's time period for review and processing of set-aside applications.

IV. Conclusion

The May 27, 2009, Staff Report and Recommendation provides a reasonable approach to implementing a program for the set-aside and retirement of allowances in proportion to participation in voluntary renewable programs. We adopt the Report and Recommendation with the clarifications discussed above.

V. Order

It Is Hereby Ordered, Adjudged, and Decreed by the Public Service Board ("Board") of the State of Vermont that:

1. The May 27, 2009, Staff Report and Recommendation Re: Implementation of the Vermont Voluntary Renewable Set-Aside Program for the Regional Greenhouse Gas Initiative, is adopted.

2. The Trustee shall withhold one percent of CO_2 allowances from RGGI auction for retirement in proportion to participation in voluntary renewable programs.

3. The Trustee shall retire CO_2 allowances in the set-aside account, in an amount approved by the Board, up to the number of tons requested by authorized applicants in order to

reflect the purchase and retirement of renewable energy credits ("RECs") made by applicants during a given compliance year.

4. The set-aside for voluntary renewable programs shall be available to programs offered by Vermont electric utilities and other qualifying entities that purchase and retire RECs on behalf of Vermont customers.

5. Renewable energy generation projects shall be located in a RGGI-participating state to be eligible for the set-aside program.

6. An applicant shall submit a written request to the Board to retire a specified number of CO_2 allowances in the voluntary purchase set-aside account. All requests for the retirement of allowances from the voluntary renewable energy market set-aside shall be submitted by July 1, immediately following the allocation year for which they are being made. The requests shall include the following information to verify and document that the voluntary renewable energy purchases demonstrate accreditable CO_2 emissions reductions or avoidance:

(a) Documentation of the number of RECs, in MWh, purchased on behalf of retail consumers, in Vermont, during the previous calendar year;

(b) Documentation that the RECs were purchased and retired by the applicant;

(c) Documentation of the calendar year when the retail purchase(s) was made;

(d) State from which the RECs were purchased, including documentation of facility name, unique generator identification number, and fuel type;

(e) Documentation that the RECs: (i) have received a Statement of Qualification from the Massachusetts Division of Energy Resources certifying that the generating facility meets the requirements of eligibility as a New Renewable Generation Unit; or (ii) have been approved by the Connecticut Department of Public Utility Control as a qualified Class I Renewable Portfolio Standards Generator; or (iii) are consistent with the requirement of § 8002(1)(A)(i) and meet the definition of new renewable energy resource under § 8002(4);

(f) Any additional information to demonstrate that the RECs are eligible in Vermont and not being credited in more than one participating state, and are not being credited toward any renewable portfolio standard.

7. The total tons of CO_2 retired shall be equal to the MWh purchase of voluntary renewable energy multiplied by the marginal CO_2 emissions rate for the region where the electricity represented by the sale was generated. Specifically, the total tons of CO_2 retired shall be determined using the following equation:

CO_2 tons = MP × MER/2000

where:

CO_2 tons = the number of allowances (in tons rounded to the nearest whole ton) to be placed in the retirement account.

MP = the number of renewable energy credits (RECs) voluntarily purchased on behalf of Vermont consumers during the calendar year (in equivalent MWh), which have been generated within a participating RGGI state.

MER = the most recently published annual average marginal emission rate (in lbs of CO_2 per MWh) as reported by the corresponding participating state's regional transmission organization.

8. After review of applicant requests and providing for Advisory Committee input, following the July 1st application deadline, the Board shall direct the RGGI Trustee to retire the number of CO_2 allowances equal to the amount of avoided CO_2 emissions from the previous calendar year, as determined by the equation above.

9. Any allowances not utilized for voluntary renewable programs in a given year shall be rolled over and utilized for the following year set-aside and the following year set-aside of one percent shall be reduced by the amount rolled over.

Dated at Montpelier, Vermont, this 19th day of August, 2009.

s/James Volz	)	
	)	PUBLIC SERVICE
	)	
s/David C. Coen	)	BOARD
	)	
	)	OF VERMONT
s/John D. Burke	)	

OFFICE OF THE CLERK

FILED: August 19, 2009

ATTEST: s/Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)